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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

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9 NOUANSAVANH RASAVONG,

10 Plaintiff,

11 v.

12 J. RUIZ et al.,

13 Defendants.
14

Case No. 2:16-cv-01121-JAD-GWF

ORDER

15 This action is a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by
16 a former state prisoner. In compliance with this Court's order, Plaintiff has submitted an
17 application to proceed in district court without prepaying fees or costs following his release
18 from prison. (ECF No. 26). Based on the financial information provided, the Court grants
19 Plaintiff leave to proceed without prepayment of fees or costs pursuant to 28 U.S.C.
20 § 1915(a)(1).¹

21 On February 5, 2018, the Court entered a screening order. (ECF No. 24). A follow-
22 up order imposed a 90-day stay and the Court entered a subsequent order assigning the
23 case to mediation by a court-appointed mediator. (ECF No. 29, 31). The Office of the
24 Attorney General has filed a status report indicating that settlement was not reached and
25 informing the Court of its intent to proceed with this action. (ECF No. 38).

26 Plaintiff has filed a motion for appointment of counsel. (ECF No. 37). A litigant

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28 ¹ Plaintiff is not subject to the requirements of 28 U.S.C. § 1915(a)(2), (b) because he is
no longer a "prisoner" within the meaning of the statute. See 28 U.S.C. § 1915(h).

1 does not have a constitutional right to appointed counsel in 42 U.S.C. § 1983 civil rights
2 claims. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981). Pursuant to 28 U.S.C.
3 § 1915(e)(1), “[t]he court may request an attorney to represent any person unable to
4 afford counsel.” However, the court will appoint counsel for indigent civil litigants only in
5 “exceptional circumstances.” *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009) (§ 1983
6 action). “When determining whether ‘exceptional circumstances’ exist, a court must
7 consider ‘the likelihood of success on the merits as well as the ability of the petitioner to
8 articulate his claims *pro se* in light of the complexity of the legal issues involved.” *Id.*
9 “Neither of these considerations is dispositive and instead must be viewed together.” *Id.*
10 In the instant case, the Court does not find exceptional circumstances that warrant the
11 appointment of counsel. The Court denies the motion for appointment of counsel.

12 **IT IS THEREFORE ORDERED** that:

13 1. Plaintiff’s application to proceed in district court without prepaying fees or
14 costs (ECF No. 26) is **GRANTED**.

15 2. Plaintiff is permitted to maintain this action to conclusion without the
16 necessity of prepayment of any additional fees or costs or the giving of security therefor.
17 This order granting leave to proceed in district court without prepaying fees or costs shall
18 not extend to the issuance and/or service of subpoenas at government expense.

19 3. The Clerk of the Court shall electronically **SERVE** a copy of this order and
20 a copy of Plaintiff’s second amended complaint (ECF No. 25) on the Office of the Attorney
21 General of the State of Nevada, by adding the Attorney General of the State of Nevada
22 to the docket sheet. This does not indicate acceptance of service.

23 4. Service must be perfected within ninety (90) days from the date of this order
24 pursuant to Fed. R. Civ. P. 4(m).

25 5. Subject to the findings of the screening order and follow-up order (ECF No.
26 24, 29), within **twenty-one (21) days** of the date of entry of this order, the Attorney

1 General's Office shall file a notice advising the Court and Plaintiff of: (a) the names of the
2 defendants for whom it accepts service; (b) the names of the defendants for whom it does
3 not accept service, and (c) the names of the defendants for whom it is filing the last-
4 known-address information under seal. As to any of the named defendants for whom the
5 Attorney General's Office cannot accept service, the Office shall file, *under seal*, but shall
6 not serve the inmate Plaintiff the last known address(es) of those defendant(s) for whom
7 it has such information. If the last known address of the defendant(s) is a post office box,
8 the Attorney General's Office shall attempt to obtain and provide the last known physical
9 address(es).

10 6. If service cannot be accepted for any of the named defendant(s), Plaintiff
11 shall file a motion identifying the unserved defendant(s), requesting issuance of a
12 summons, and specifying a full name and address for the defendant(s). For the
13 defendant(s) as to which the Attorney General has not provided last-known-address
14 information, Plaintiff shall provide the full name and address for the defendant(s).

15 7. If the Attorney General accepts service of process for any named
16 defendant(s), such defendant(s) shall file and serve an answer or other response to the
17 complaint within **sixty (60) days** from the date of this order.

18 8. Henceforth, Plaintiff shall serve upon defendant(s) or, if an appearance has
19 been entered by counsel, upon their attorney(s), a copy of every pleading, motion or other
20 document submitted for consideration by the Court. Plaintiff shall include with the original
21 document submitted for filing a certificate stating the date that a true and correct copy of
22 the document was mailed or electronically filed to the defendants or counsel for the
23 defendants. If counsel has entered a notice of appearance, Plaintiff shall direct service
24 to the individual attorney named in the notice of appearance, at the physical or electronic
25 address stated therein. The Court may disregard any document received by a district
26 judge or magistrate judge which has not been filed with the Clerk, and any document

1 received by a district judge, magistrate judge, or the Clerk which fails to include a
2 certificate showing proper service.

3 9. This case is no longer stayed.

4 10. The motion for appointment of counsel (ECF No. 37) is denied.

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6 DATED THIS 28th day of June 2018.

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UNITED STATES MAGISTRATE JUDGE